DOCUMENT RESUME

ED 334 711 EA 023 220

TITLE Management Audit of Hawaii's Student Transportation Safety Program. A Report to the Governor and the Legislature of the State of Hawaii, No. 91-6. Submitted by the Auditor, State of Hawaii.
INSTITUTION Hawaii State Office of the Auditor, Honolulu.
PUB DATE Jan 91
NOTE 59p.
PUB TYPE Reports - Descriptive (141) -- Guides - Non-Classroom Use (055)

EDRS PRICE MF01/PC03 Plus Postage.
DESCRIPTORS Elementary Secondary Education; *Financial Audits; *Program Evaluation; *Safety; *School Buses; *Standards; State Action; *Student Transportation
IDENTIFIERS *Hawaii

ABSTRACT

This reexamination of Hawaii's student transportation service program revealed that student safety is a concern despite improvements over the past 12 years. One problem is continued use of pre-1977 school buses that do not meet federal safety construction standards. Students also travel in unsafe van-like "type-III" school buses and in other vehicles granted statutory or administrative exemption. Hawaii lags behind other states in not requiring stop signal arms for all school buses. The number of Department of Education inspections and drivers has diminished in the past 2 years, and the department lacks an information system for tracking school bus vehicles and drivers. Authority for school bus aides to help special education children has also lapsed. More attention must be given to student training and discipline and the handling of school-related transportation. Private schools are not required to have safety training for students, and public school measures need to be improved. Factors such as school bus routes, stops, and schedules receive little attention. Major recommendations include eliminating pre-1977 buses, phasing out "type-III" buses, and narrowing exemptions for nonstandard school buses. The Department of Transportation should require all school buses to have stop signal arms, intensify enforcement activities, develop a supportive information system, and establish regulatory control over special education school bus aides. Several improvements in training and discipline are also recommended. An appendix contains suggested ameliorative legislation. (MLH)

****
* Reproductions supplied by EDRS are the best that can be made *
* from the original document. *
****

ED334711

EA

Management Audit of Hawaii's Student Transportation Safety Program

A Report to the Governor and the Legislature of the State of Hawaii

U.S. DEPARTMENT OF EDUCATION
Office of Educational Research and Improvement
EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)

☑ This document has been reproduced as received from the person or organization originating it.

☐ Minor changes have been made to improve reproduction quality.

• Points of view or opinions stated in this document do not necessarily represent official OERI position or policy.

"PERMISSION TO REPRODUCE THIS MATERIAL HAS BEEN GRANTED BY

D. Asao

TO THE EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)."

BEST COPY AVAILABLE

EA 023 220

THE AUDITOR
STATE OF HAWAII

The Office of the Auditor

The missions of the Office of the Auditor are assigned by the Hawaii State Constitution (Article VII, Section 10). The primary mission is to conduct post audits of the transactions, accounts, programs, and performance of public agencies. A supplemental mission is to conduct such other investigations and prepare such additional reports as may be directed by the Legislature.

Under its assigned missions, the office conducts the following types of examinations:

1. *Financial audits* attest to the fairness of the financial statements of agencies. They examine the adequacy of the financial records and accounting and internal controls, and they determine the legality and propriety of expenditures.

2. *Management audits*, which are also referred to as *performance audits*, examine the effectiveness of programs or the efficiency of agencies or both. These audits are also called *program audits*, when they focus on whether programs are attaining the objectives and results expected of them, and *operations audits*, when they examine how well agencies are organized and managed and how efficiently they acquire and utilize resources.

3. *Sunset evaluations* are conducted of professional and occupational licensing programs to determine whether the programs should be terminated, continued, or modified. These evaluations are conducted in accordance with a schedule and criteria established by statute.

4. *Sunrise analyses* are similar to sunset evaluations, but they apply to proposed rather than existing regulatory programs. Before a new professional and occupational licensing program can be enacted, the statutes require that the measure be analyzed by the Office of the Auditor as to its probable effects.

5. *Health insurance analyses* are conducted on bills which propose to mandate certain health insurance benefits. Such bills cannot be enacted unless they are referred to the Office of the Auditor for an assessment of the social and financial impact of the proposed measure.

6. *Special studies* are conducted when they are requested by both houses of the Legislature. The studies usually address specific problems for which the Legislature is seeking solutions.

Hawaii's laws provide the Auditor with broad powers to examine all books, records, files, papers, and documents and all financial affairs of every agency. The Auditor also has the authority to summon persons to produce records and to question persons under oath. However, the Office of the Auditor exercises no control function, and its authority is limited to reviewing, evaluating, and reporting on its findings and recommendations to the Legislature and the Governor.

THE AUDITOR
STATE OF HAWAII

Kekuanao'a Building
465 South King Street, Suite 500
Honolulu, Hawaii 96813

BEST COPY AVAILABLE

Management Audit of Hawaii's Student Transportation Safety Program

A Report to the Governor and the Legislature of the State of Hawaii

Submitted by

THE AUDITOR
STATE OF HAWAII

Report No. 91-6
January 1991

Foreword

In 1978, this office reported on its management audit of Hawaii's student transportation service program. At that time, we found numerous and serious deficiencies in the safety aspects of the transportation program and made various recommendations for improvement. After the passage of more than a decade, we have reexamined the State's student transportation safety program. This report presents the results of this reexamination and sets forth our recommendations for further improvements.

To facilitate action on the recommendations, we have included in the appendix a draft bill incorporating some of our concerns.

We wish to express appreciation for the cooperation and assistance extended to us by the management and staffs of the Department of Transportation, Department of Education, and Department of Accounting and General Services.

Newton Sue
Acting Auditor
State of Hawaii

January 1991

Table of Contents

Chapter 1 Introduction and Background

Objectives of the Audit 1
Scope and Methodology 2
Organization of the Report 2
Background 2

Chapter 2 Safety Regulation of Vehicles and Drivers

Summary of Findings 11
Student Transportation Vehicles 12
Student Transportation Drivers and Aides 23
Recommendations 26

Chapter 3 Safety Regulation in Other Areas

Summary of Findings 29
Student Safety Training and Discipline 29
Excursion Travel for the Public Schools 33
School Bus Routes, Stops, and Schedules 35
Recommendations 40
Need for Interagency Cooperation 41
Recommendation 42

Notes 43

Responses of the Affected Agencies 45

Appendix: Suggested Legislation 48

Chapter 1

Introduction and Background

Yellow school buses with red lights and other special equipment are a familiar sight on roadways throughout the United States. This universality of color and equipment reflects a national concern about the safe movement of students in highway traffic. In Hawaii, the state government has undertaken a safety program for thousands of students in a wide variety of public and private educational and child care institutions.

Students going to and from school constitute a daily movement of massive proportions. More than 200,000 Hawaii students attended almost 400 public and private schools in 1988-89. Of these, 168,000, or more than 80 percent, were public school students.[1] Almost 40,000 public school students and an unknown but smaller number of private school students traveled by school bus to and from school. No data are available on the amount of student transportation for field trips, excursions, athletic contests, and other school-related events, but such travel is significant. Since school buses are used for much of this transportation, almost all students probably travel by school bus at one time or another.

In 1978, this office audited the state's student transportation service program. We noted numerous shortcomings in the safety aspects of the transportation program and made various recommendations for improvement.[2] Considering the importance of student safety and the changes in the past 12 years, now is an appropriate time to reexamine the management of Hawaii's student transportation safety program.

Objectives of the Audit

1. To assess the adequacy of the statutes and rules governing student transportation safety, that is, relevant federal standards and requirements, state statutes, and departmental rules.

2. To evaluate the administration of the student transportation safety program by the responsible state agencies: Department of Transportation, Department of Education, and Department of Accounting and General Services.

3. To ascertain whether vehicles and drivers used for student transportation comply with pertinent federal and state safety standards and requirements.

4. To recommend changes and improvements that may be needed to ensure a proper level of student transportation safety in Hawaii.

Scope and Methodology

This audit considered the safety aspects of student transportation in both public and private schools in Hawaii, but it emphasized the transportation of public school students, who constitute the great majority of students in Hawaii. Our work encompassed the transport of students between home and school and in school-related activities, but did not extend to students using public mass transportation or individually operated vehicles not subject to school control.

Our methodology included a general literature search on student transportation safety; a review of pertinent federal, state, and local laws and regulations; an examination of relevant agency, school, and bus operator records; interviews with key personnel; and on-site visits and observations.

Our evaluation was based on relevant portions of federal statutes and standards issued by the National Highway Traffic Safety Administration; standards recommended by the Tenth National Conference on School Transportation; and the 1989 findings, conclusions, and recommendations of the Transportation Research Board of the National Research Council.

Fieldwork on this audit was performed from March 1990 through July 1990 and focused primarily on conditions as they existed during the 1989-1990 school year.

Organization of the Report

The first chapter is this introduction and background. Chapter 2 examines the safety of student transportation vehicles and drivers. Chapter 3 considers other operational aspects of student transportation.

Background

Government support of student transportation can be traced back to the latter part of the Nineteenth Century when horses and wagons were used for this purpose. By the 1920s, the basic concept of the school bus as it exists today--a steel-paneled body attached to a truck chassis--had arrived. In 1939, the first National School Bus Standards Conference, composed of state and industry representatives, adopted a body of recommended standards for school buses.

Over the years since then, ten other National School Bus Standards Conferences (including one in May 1990) have been held to improve and expand the original recommendations. Recent changes have included minimum specifications for special education buses, guidelines for the operation of school buses, and standards for school bus accident report forms.

Emergence of federal role

With passage of the National Traffic and Motor Safety Act of 1966 (Public Law 89-563), the federal government became directly involved in student transportation safety. To date, the federal agency responsible for implementing this law--the National Highway Traffic Safety Administration--has issued 33 Federal Motor Vehicle Safety Standards that apply in whole or part to school buses. These standards have the force of law and are binding on bus manufacturers. Of particular significance are several standards which apply to all school buses manufactured after April 1, 1977. They upgrade the safety characteristics of school buses, especially their crashworthiness.[3]

The federal government's role expanded when the Highway Safety Act of 1966 (Public Law 89-564) gave the U.S. Department of Transportation a leadership role in increasing traffic safety throughout the United States. The department's Highway Safety Program Guideline No. 17 deals with pupil transportation safety. This guideline covers such matters as a state's overall administration of pupil transportation safety, the special identification and equipment of school vehicles, and their operation and maintenance.

Involvement by the State of Hawaii

In Hawaii, the impetus for government action in student transportation came from several sources: (1) the move in 1961 to exert state jurisdiction over motor carriers through the Public Utilities Commission, (2) the need to comply with federal requirements under the Highway Safety Act of 1966, and (3) the transfer in the 1960s of various county functions relating to education, including the responsibility for student transportation. Responsibility for student transportation safety had become widely dispersed in 1978 when we audited the State's student transportation service program.[4]

Findings and recommendations of 1978 audit

Our audit found major shortcomings in (1) statutory provisions, organizational arrangements, and overall leadership and direction; (2) rules, policies, and procedures; (3) regulation of school bus drivers; (4) vehicle safety; (5) training for students; (6) supervision over school bus routes, stops, and schedules; and (7) the reporting, investigation, analysis, and follow-up on student transportation accidents.

Our recommendations included (1) improving the qualifications of school bus drivers, (2) eliminating old school buses and establishing procedures to ensure their timely replacement, (3) identifying school buses in conformance with federal standards, (4) enforcing vehicle inspection and maintenance standards, (5) establishing clear requirements for seating arrangements on school buses, and (6) implementing programs for passenger safety training and discipline.

Our primary recommendation was for the State to take a comprehensive and coordinated approach to student transportation safety and for the Department of Transportation (DOT) to be given primary responsibility for overseeing the student transportation safety program. We said the Department of Education (DOE) should continue to play an important role, but the Department of Accounting and General Services (DAGS) and the Department of Personnel Services should be relieved of any direct responsibilities for regulating safety or for providing services.

Developments since 1978

Since we issued the audit report, a number of changes have occurred.

1979 Memorandum of agreement

In June 1979, the four affected state departments, with the approval of the governor, entered into an agreement allocating responsibilities for the student transportation program. Primary responsibility for safety was vested in the DOT, including the development and enforcement of safety standards and regulations governing school bus driver qualifications and vehicle equipment inspection and maintenance requirements. Specific tasks assigned to the DOT included implementation of a training program for school bus drivers, inauguration of an inspection and maintenance program, and investigation of school bus accidents and of reports of unsafe buses.

The only safety function assigned to the DOE was that of passenger safety education. However, the DOE was still left with broad statutory authority to adopt relevant rules and regulations and to ensure compliance within the public school system.

Along with contracting with private operators for provision of school bus services for Hawaii's public schools, the Department of Accounting and General Services (DAGS) was given the responsibility of enforcing contract provisions and requiring conformance with rules, policies, and safety regulations. DAGS was

allotted the specific tasks of coordinating the assignment of students to buses and coordinating the designation of bus stops.

The Department of Personnel Services was charged with the duty of providing driver and first aid training to state employed school bus drivers (consisting of only a small number of drivers operating state owned buses located in the area of West Hawaii).

Act 94 of 1983

Codified as Section 286-181, *Hawaii Revised Statutes*, this law redistributed responsibilities for student transportation agreed upon in 1979. The DOT now has primary responsibility for safety regulation, including the development and enforcement of standards and regulations for school bus driver qualifications and vehicle construction, equipment, inspection, and maintenance. The DOT is also responsible for investigating school bus accidents.

The DOE is responsible for passenger safety training and discipline in the public schools. It also retains its administrative and policymaking role in providing student transportation services for the public schools.

The statute assigns no direct safety role for student transportation services to DAGS. The department is, however, the agency that contracts with private bus companies to provide public school students with transportation to and from school. It administers and enforces contract provisions, including compliance with laws, rules, and safety regulations, and also sets the routes, stops, and schedules for school buses transporting public school students to and from school.

Subsequent changes

The 1983 law has since been modified because some organizations pleaded economic and operational hardship and sought to be exempted from the law or given modified treatment. The original law covered virtually all vehicles used under school auspices to transport students. "School" was broadly defined as both public and private schools, from day care centers and pre-schools to high schools.

In 1984 the first of these modifications allowed the use of a "Type III" category of school bus. Nationwide, only "Type I" and "Type II" school buses, the large and small types of school buses, comply fully with federal school bus safety standards. Hawaii's

"Type III" school buses are van-type vehicles operated by schools, day care centers, pre-schools, and similar organizations. These van-type vehicles must be painted school bus yellow and meet other special equipment requirements that bring them into partial compliance with federal safety standards. They are restricted to transportation for school-related activities and are not supposed to be used for the regular transportation of students to and from school.

It was in 1984 also that the DOE adopted new rules that were to cover those aspects of student transportation safety that remained with the department after passage of Act 94 in 1983. In 1985, passenger vans owned and operated by community associations were exempted from regulation. In 1990, this exemption was broadened to include any motor vehicle owned and operated by community organizations or nonprofit corporations promoting ridesharing. Other legislation was passed which authorizes the DOT to allow the DOE to use non-school bus vehicles under some circumstances.

Two other laws passed in 1987 relate to student transportation safety. Act 237 requires school buses to activate their flashing red lights when loading and unloading students along any thoroughfare. Nearby vehicles must come to a halt. Act 266 exempted "Type I" school buses from the requirements to have passenger seat belts. Because all "Type I" school buses built since 1977 were required to have "compartmentalized," thickly padded passenger seats, the Legislature felt seat belts were unnecessary.

New DOT regulations

DOT adopted new regulations that became effective on April 27, 1989. The new rules superseded the previously established rules of the DOE that had remained in effect while changes were occurring. The rules are comprehensive and cover most areas. Discipline and safety training of public school students remain with the DOE.

1990 changes

The Legislature enacted three laws relating to student transportation safety. Act 44 broadened the exemption of vehicles subject to regulation as school buses. Act 120 authorized exemptions that allow the use of non-school bus type vehicles (1) by the DOE in school activities when school buses are found to be "impossible or impractical," and (2) for the transportation of special education students when travel on regular school buses is "impossible or impractical." The act requires DOT to adopt rules governing these exemptions and calls upon the DOE to help in developing the criteria granting exemptions for travel to school functions and activities.

Finally, Act 245 removed the prohibition placed on imposing age limits on school buses covered in the State's school bus service contracts and now requires that such age limits be included in all contracts.

Organization and operation of the safety program

We summarize the respective roles and organizations of three departments which share responsibility for the student transportation and safety program.

Department of Transportation

Responsibility for pupil transportation rests primarily with the DOT. The law (Section 286-181) charges the DOT with adopting and enforcing rules and standards relating to school vehicles, equipment, and drivers. The department's authority extends to private as well as public schools, to day care centers, child care facilities, headstart programs, preschools, kindergartens, and elementary, secondary, and special schools. It encompasses transportation to school functions and school-related events and transportation between home and school.

These responsibilities are carried out by the DOT's motor carrier safety staff under the Motor Vehicle Safety Office of the Highways Division. At the time of this audit, the motor carrier safety staff consisted of a manager, ten motor carrier safety officers on Oahu, and one officer in each of the three neighbor island counties. This staff is also responsible for regulating the safety of all commercial motor vehicles (trucks and buses) throughout the state.

The Motor Vehicle Safety Office enforces student transportation safety regulation primarily through school bus vehicle inspections at baseyards, spot checks on the highway, and safety audits of driver and vehicle records maintained by bus operators.

Department of Education

The same law directs the DOE to adopt for public school students rules governing passenger conduct, passenger safety instruction, and disciplinary procedures for enforcing such rules. The DOE may impose sanctions on violators.

Other legislation gives the DOE discretion to provide suitable transportation to and from school and for educational field trips for children in grades kindergarten to twelve and in special education

classes. The DOE has the power to adopt rules for the supervision and administration of the affected student transportation.

The DOE administers student transportation services and safety at the levels of state, district, and school. At the state level, responsibility is centered in the Student Transportation, Traffic Safety, and Housing Section of the Facilities and Support Services Branch under the Office of Business Services. This section is also responsible for numerous school safety matters, such as school security, civil defense, hazardous waste disposal, asbestos removal, and other facility and environmental safety concerns. The section is staffed by a section head, a safety and security specialist, and a secretary.

At the district level, responsibility lies with a business staff specialist at each of the seven district offices. Other district personnel who may be involved include general curriculum specialists, special education specialists, athletic specialists, and student activities staff.

Responsibility at the school level depends on the size, type, and location of each school. Affected school personnel include principals, vice principals, student activities coordinators, band directors, athletic directors, and teachers.

Department of Accounting and General Services

By executive order of the Governor and under a 1979 interdepartmental memorandum of understanding entered into by DOT, DOE, DAGS, and the Department of Personnel Services, DAGS is responsible for contracting subsidized transportation services for public school students, including transportation to and from school for eligible regular students and transportation for special education students. DAGS has no responsibility, however, for transporting public school students in school-owned vehicles or for field trips, excursions, and school-related events. The DOE has sole responsibility for these types of transportation.

DAGS is responsible for drawing up the contracts, putting them out to bid, awarding them, and monitoring and enforcing compliance with contract provisions. DAGS also investigates complaints. In addition, DAGS operates the few state-owned school buses used to provide student transportation services on the west side of the Island of Hawaii. To the extent that the State influences routes, stops, and schedules for school buses serving public schools, DAGS is the agency that is involved.

The department administers contracts for school bus services through the Student Transportation Services Branch of its Central Services Division. The branch is staffed by a school bus transportation director, a contract administrator, six school bus transportation officers, and clerical personnel. There are two school bus transportation officers for the four school districts on Oahu and one each for the Kauai and Maui school districts. Two school bus transportation officers provide services to the Hawaii school district, one for the east side of the island and one for the west side.

Chapter 2

Safety Regulation of Vehicles and Drivers

Much student transportation in the state is provided under the auspices of public and private schools. Because school-sanctioned transportation is devoted almost exclusively to students, it is the main focus of regulatory activity aimed at enhancing student transportation safety. In this chapter, we look at the regulation of two key areas in school-sanctioned transportation--the vehicles used to transport students and the drivers of those vehicles.

Summary of Findings

Although much has been done to improve the safety regulation of student transportation vehicles and their drivers, several important areas still need corrective action:

1. Removing from service all school buses built before 1977, which do not meet federal safety standards for school bus construction and constitute a danger to passengers in the event of accidents.

2. Phasing out "Type III" school buses, which do not comply with federal safety standards for school bus construction and which are exempt from five of the federal government's critical safety requirements for regular passenger cars.

3. Closing legal loopholes and placing strict limits on exemptions for the use of vehicles other than standard school buses to transport students.

4. Making sure all school buses in Hawaii are equipped with stop signal arms, an action recommended by national safety authorities and already required by 36 states.

5. Strengthening the enforcement of vehicle safety requirements.

6. Developing a comprehensive and accessible information system for school transportation drivers that will facilitate better monitoring.

7. Reestablishing regulation over the qualifications and behavior of school bus aides who are used in the transportation of special education students.

8. Establishing a better appeals process for denials, suspensions, and revocations of permits to operate and drive student transportation vehicles.

Student Transportation Vehicles

Our 1978 audit found numerous deficiencies in the safety regulation of student transportation vehicles. Students were being transported on many extremely old buses that did not meet safety standards with respect to construction, seating, and proper markings. In recent years, the Department of Transportation (DOT) has taken steps toward achieving more effective regulation of school buses. The most significant was the adoption in April 1989 of rules that set forth requirements for identifying, constructing, equipping, maintaining, and inspecting school buses. The department has in general followed federal safety standards, and it has begun to enforce the rules.

Despite these steps, there are some continuing concerns with safety, which we discuss here.

Unsafe pre-1977 buses still in use

A major problem is the continued use of school buses built prior to 1977. These buses are far less crashworthy than those built after federal standards were strengthened in 1977 and pose a danger to passengers in the event of accidents.

The problem of pre-1977 buses is underscored by a May 1988 school bus accident in Kentucky in which 27 persons were killed and others seriously injured. The main cause of the accident was a drunk driver crashing into the front of the bus while driving on the wrong side of an interstate highway. The National Transportation Safety Board concluded, however, that the characteristics of the 11-year old bus contributed to the severity of the injuries and to the large number of fatalities. The board proposed that all school buses built before 1977 be taken out of service.

Underlying the safety board's recommendation were major changes made in the federal standards for school bus construction in 1977 by the National Highway Traffic Safety Administration (NHTSA). School buses made after 1977 have (1) increased roof strength, (2) stronger joints between body panels, (3) highbacked, well-padded, stronger seats, (4) fuel system protection devices, (5) improved emergency exits, (6) cross-view mirrors, and (7) improved hydraulic brakes.[1] All of these enable post-1977 buses to offer higher levels of safety because of their crashworthiness and crash avoidance features.

The requirements for passenger seating dramatize the differences between pre-1977 and post-1977 school buses. The seating conditions in pre-1977 buses offer little or no protection against accidents or sudden stops. Typically, these buses have seats with exposed metal rails on top of, or extending out from, the seat backs. Seats themselves are usually covered with sheet metal or hard plastic. The new standards for buses require crash protection for passengers. Seats are stronger, higher, well-anchored, and heavily padded on all sides with energy-absorbing materials. The photographs on page 16 depict quite clearly these differences.

The significance of these differences was brought home to DOT officials by an incident that occurred here in May 1988. A pre-1977 school bus transporting public school students on a school outing braked suddenly and came to an abrupt stop. According to the Accident Investigation Report, "approximately thirty-one children were injured. Twenty-five were treated for minor injuries and six were treated for major injuries." The report noted that the interior seats were "made out of a hard plastic, with no cushion padding for either the seat or the back rest." In the opinion of DOT officials, most of these injuries would not have occurred, and all of them would have been less severe, if the vehicle had been a post-1977 school bus.

Exceptions for certain vehicles

The DOT adopted new rules in April 1989 requiring all school buses (except the Type III school buses that will be discussed in the next section) to comply with the current federal safety standards. However, a number of pre-1977 school buses remain in use because of certain exceptions.

A major exception is a large group of school buses that are under contract with the State to provide transportation services to and from school for public school students. The Department of Accounting and General Services (DAGS), the agency that handles these contracts, had attempted to set limits on the ages of school buses. But Act 191, passed in 1986, placed a ban on including in contracts any age limitations on school buses. As a result, contracts entered into since 1986 continue to allow the use of buses built before 1977. (It should be noted that Act 245, enacted in 1990, has since removed the ban.)

Because the DOT's new rules conflicted with school bus service contracts, DAGS in 1989 requested a temporary exemption from the rules to allow the use of pre-1977 school buses for the duration of various contract periods. DAGS stated that "a temporary exemption

may be the best alternative at this time for it will allow the State to continue our home to school and back home transportation for school children without disruption in service and without additional cost to the State." The request included a listing of 127 pre-1977 school buses covered by contracts with expiration dates ranging from June 1991 to June 1996.

In response, the DOT granted DAGS temporary exemptions from its rules for varying lengths of time, up to June 30, 1992. The DOT also granted exemptions for pre-1977 vehicles belonging to bus operators without contracts with DAGS. The DOT has received requests to further extend these exemptions.

Importance of 1977 standards

The importance of the 1977 safety standards has been reaffirmed by the Transportation Research Board of the National Research Council. After an extensive review of ways to improve school bus safety, the board in 1989 released a report entitled *Improving School Bus Safety*. The report noted that the 1977 standards "have substantially improved the crashworthiness of school buses and have made a mode of transportation that was already quite safe even safer. All states, local school districts, and private contractors that are still operating pre-1977 school buses should replace these vehicles with post-1977 school buses as rapidly as possible."[2]

In its review of the report, the NHTSA agreed that replacing pre-1977 school buses offers one of the most effective methods of improving school bus safety: "Post-standard buses have been shown to provide significantly higher levels of occupant protection in real-world crashes."[3]

The Hawaii Department of Transportation shares the view that pre-1977 school buses should be replaced as rapidly as possible. Officials feel that continued use of pre-1977 buses poses the most serious safety problem affecting student transportation safety in this state.

Allowances made for "Type III" school buses

A second serious problem is the use of vehicles as school buses that do not meet either federal safety standards for school buses or federal safety requirements for regular passenger cars. These van-type vehicles are known as "Type III" school buses. Type I and Type II school buses are the large and small school buses that fully comply with federal school bus safety standards for construction and equipment. Officials of the DOT say that Hawaii is the only state that approves a Type III school bus. The photographs on page 17 show the three types of school buses.

Vehicles of this type used to be restricted to preschools and similar child care operations and to regular school athletes and athletic staffs going to and from athletic activities. Act 120 of 1990 expanded their use to all school pupils and school staffs being transported to and from school-related activities.

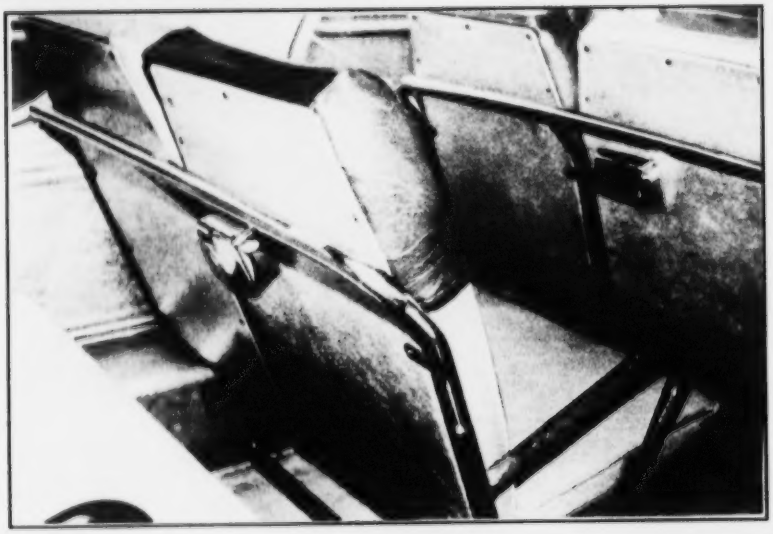
The problem stems from two conflicting state objectives: (1) to have broad regulation over student transportation, and (2) to relieve the economic burden of purchasing Types I and II buses on operators of small pre-school and child care institutions. The Type III category was created when many of the small, private preschool and child care institutions protested that they could not afford the relatively expensive Type I or Type II vehicles that meet federal standards. Responding to these protests, the Legislature in 1984 passed Act 169 to say that in adopting safety rules and standards the DOT "shall permit the use of small school buses or vans weighing less than ten thousand pounds for the transportation of pupils of a day care center, child care facility, headstart program, and preschool, or of school athletes and school athletic staffs to and from school related athletic activities."

This amendment put the DOT in the position of trying to establish safety requirements for vehicles that do not comply with federal safety standards for school buses and do not even meet a number of federal safety standards for regular passenger cars. Under current federal law, vans and similar multipurpose vehicles are classified separately from regular passenger cars and do not have to meet five critical safety requirements applicable to regular passenger cars. These five safety requirements include (1) reinforced doors for greater protection in side impact collisions, (2) greater vehicle roof crush protection, (3) center-mounted brake lamps to reduce rear-end collisions, (4) head restraints to protect heads and necks in sudden vehicle impacts, and (5) airbags or seatbelts.

The DOT reached a compromise with the child care providers, a child center association, and the Office of Children and Youth of the State of Hawaii by establishing the Type III category of school bus. The DOT requires these buses to be painted school bus glossy yellow with black bumpers. The words "SCHOOL BUS" must be printed on the front and rear of each bus, and a protective metal guard must be installed around the circumference of each drive shaft. Each vehicle must be provided with seat belts so that the driver and all passengers can be individually belted. Each bus must have a system of mirrors that meets federal school bus standards. In addition, all Type III school buses that load and unload passengers on roadways must have a system of flashing red lights that meet federal school bus standards.

Interior of post-1977 school bus. Note the high-backed, compartmentalized, heavily-padded seats required by the federal standards. Surfaces are soft.

Interior of a typical pre-1977 school bus. Note the profusion of hard surfaces. The low-backed seats are framed with metal bars, and the seat backs are made of metal. Surfaces such as these contributed to the injuries that occurred on a May 1988 school outing when a bus had to brake suddenly and come to an abrupt stop.



Interior of a pre-1977 transit converted school bus. Note the hard, sharp surfaces. Metal ashtrays and support bars protrude from seat backs covered in sheet metal. An exemption allows buses such as these to remain in service.

Typical Type I school bus. Brought into service after 1977, buses such as these meet federal school bus construction standards and offer high levels of safety because of their crashworthiness.

Smaller Type II school bus. Buses of this type also meet federal school bus construction standards.

Type III school bus. Van-like vehicles of this type do not meet either federal safety standards for school buses or the safety requirements for regular passenger cars. Officials say Hawaii is the only state that allows vehicles of this type to transport school children.

These safety requirements go beyond what is normally required of multipurpose type vehicles, but they still fall short of the federal safety requirements for Type I and Type II school buses. This means, in effect, that the State has adopted a double standard with regard to the transportation of students aboard school buses. For most students, transportation must be in buses deemed by national safety authorities to be as safe as possible. For other students, transportation is allowed in vehicles clearly not as safe as they could be.

Yet another consideration is the State's liability in cases of accidents and whether the use of Type III vehicles for regularly transporting students and the sanctioning of such use could be defended or justified.

Loopholes permit exemptions for some vehicles

Another group of vehicles escaping safety regulation are those which by statute or by administrative action have been granted exemption from student transportation safety regulation. This creates a double standard where some vehicles used for student transport must meet a higher standard of safety than others. The bases for the exemption have no relationship to whether the vehicles are safe for transporting students.

When DOT first was given authority over the regulation of student transportation safety under Act 94 in 1983, only three types of vehicles were exempted: (1) vehicles used to transport students who attend schools above the twelfth grade or who are over 18 years of age, (2) privately owned passenger cars providing student transportation without compensation, and (3) mass transit buses which transport students as part of regular transit operations. Act 93 of 1985 added (4) privately owned passenger vans of incorporated community associations.

Act 44 of 1990

In 1990, two other laws widened the exemption gate. Act 44 broadens the fourth category of exemption by expanding it from privately owned passenger vans to any type of motor vehicle. It also adds nonprofit corporations offering ridesharing services. Now community associations and nonprofit corporations can operate any type and size vehicle, including large and non-standard buses, and can transport any number of students as frequently and regularly as they wish so long as they can claim that such transportation is for the purposes of "promoting recreation, health, safety, ridesharing, or social group functions." We believe the type of organization that owns and operates the vehicles should not determine whether safety

regulation is in order. The basis for safety regulation should be whether or not large numbers of students are regularly being transported on such vehicles. To do otherwise is to require a higher level of safety for some children, but allow a lower level for others.

Exempting vehicles by statute from the standards for school buses also removes all operational aspects of these vehicles from student transportation safety regulation, including such matters as driver qualifications and vehicle operation and maintenance. Where regulation applies, persons with criminal or bad driving records can be disqualified from transporting students. With exemption, this is no longer the case.

Act 120 of 1990

A second law allows administrative exemptions. Under Act 120, DOT can exempt from regulation the transportation of public school students when compliance is found to be "impossible or impractical." The exemption is limited to transportation for school-related activities (not transportation to and from school) and should be used only for good reason, such as when school vehicles are not available. The law requires the DOT and DOE to develop criteria for exemptions, and the DOE is to report annually to the DOT on the extent it uses such exemptions. The law also specifies that students must have written statements from their parents or legal guardians waiving the State's liability.

Administrative exemptions allowed under Act 120 raise questions. First, the exemption is limited to public schools and is not available to private schools. Second, the basis for granting such exemptions when compliance is "impossible or impractical" is so broad as to be almost meaningless. That which is "impossible" is beyond effective control; that which is "impractical" is subject to wide interpretation. Third, the waiver of liability requirement is both unfair and risky. It is unfair to require parents to sign waivers when the safety ramifications are not adequately explained. It is risky because waivers may provide no practical protection to the State. In 1980, the attorney general questioned their effectiveness and recommended against their use. And finally, Act 120 did not make clear that safety should still be a prime consideration in the granting of exemptions. Care should be taken to ensure that alternatives and their safety have been taken into account and that any approved exemption affords a reasonable level of safety.

The steps taken thus far to implement Act 120 are not reassuring. The law calls for (1) development by the DOT and the DOE of criteria for granting exemptions, (2) establishment by DOT rule of

appropriate procedures and criteria, and (3) a finding by DOT that compliance with its requirements is not possible or practical.

At the time of this audit, DOT had not taken action on these steps except to approve three exemption criteria developed by the DOE. This means that no formal rules govern this area, and the public has had no opportunity to comment on the matter. Left undisclosed are such important matters as the grounds for granting exemptions or any conditions that might be attached to them, the scope and limitations of the exemptions, the length of exemption periods, and whether and when exemptions might be reviewed and reconsidered.

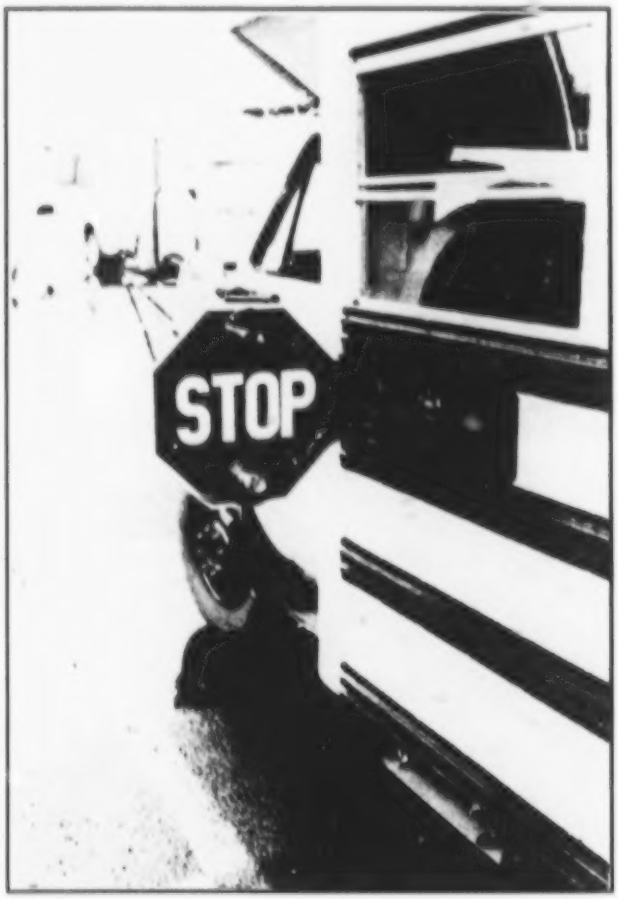
Nevertheless, the DOE was proceeding to begin implementation of the law. On August 28, 1990, it issued an update to its *Student Transportation Guide*, a compilation of its rules and policies, that provided for exemption decisions to be made at the school level based on any one of three criteria. The instructions said that exemptions can be approved (1) when school vehicles are not available to meet the needs of the activity, (2) when exemption is more economical, and (3) when the length and time of the activity require the use of the vehicle beyond the school day.

These criteria place little emphasis on student safety. There is no requirement for diligent advance search before it is determined that an approved school vehicle is not available. There is no requirement for safety assessments of proposed alternatives. Cost and budgetary considerations seem to be accorded higher priority than safety considerations. Finally, no guidance is provided on how to enhance the safety of alternative transportation.

Some school buses lack stop signal arms

Another way to enhance the safety of school buses is to make the use of stop signal arms a requirement. Cars that pass stopped school buses pose a significant danger to students getting on and off. Not all school buses in Hawaii have this piece of equipment. A stop signal arm is a device attached to the left side of the bus. When the bus is in motion, the arm lies flat against the body of the bus. When the bus stops to load and unload students, the arm can be extended out from the bus into the highway. At the end of the arm is an octagonal-shaped stop sign and in the arm are red flashing signal lamps. The photograph on page 21 shows an extended signal arm. These devices make it unmistakably clear that nearby traffic is supposed to stop.

Equipping school buses with stop signal arms has gained nationwide support as a way of enhancing safety. As of February 1990, stop signal arms were required equipment in 36 states. They are being



Stop signal arm with flashing red lights. When the bus is stopped to load and unload students, the arm is extended from the driver's side out onto the highway. Required in 36 states, these devices make it unmistakably clear that nearby traffic is to stop.

installed voluntarily in many other states. As of December 1989 an estimated 71 percent of the nation's school bus fleet had stop signal arms.[4]

In its 1989 report, *Improving School Bus Safety*, the National Research Council concluded that tests on stop signal arms had demonstrated that they were effective in halting traffic at school bus stops. In one study noted by the council, buses equipped with stop signal arms recorded almost 40 percent fewer passing violations than buses without stop signal arms. In a second study, the installation of stop signal arms reduced illegal passing violations by 48 percent.

The National Research Council has recommended that the National Highway Safety Administration (NHTSA) "require installation of stop signal arms of all new school buses and that states and local

school districts consider retrofitting older buses with stop signal arms." The NHTSA is proposing to require that all school buses be equipped with stop signal arms. This rule may be published by the end of 1990 or early 1991.

Some school buses in Hawaii are already equipped with stop signal arms. Although these devices may become a federal requirement, Hawaii need not await such action. Instead, it should move to require installation and use of stop signal arms on all school buses.

Enforcement program needs strengthening

The DOT's new rules for student transportation safety have established many of the formal requirements for safety regulation of student transportation vehicles. These requirements should be backed by a strong program of enforcement: (1) spot inspections of school buses, both on the road and in bus operator base yards; (2) periodic audits of vehicle and bus driver records kept by bus operators; and (3) collection and analysis of pertinent data for purposes of monitoring and evaluating safety performance. The DOT has not yet developed such a program.

When the DOT was given principal responsibility for student transportation safety, it dedicated several of its motor carrier safety officers full time to this area. In 1989, however, the department made student transportation safety a responsibility of all motor carrier safety officers along with their other duties. These other duties involve regulating thousands of commercial vehicles and their drivers and operators. Now no one in the department is assigned full time to student transportation safety.

This reassignment of duties has resulted in a drop off in the numbers of safety inspections and bus operator audits on Oahu. The decline has been most dramatic with respect to safety audits of bus operators. During the 1986-1987 school year, there were audits of 13 school bus companies and 107 other (institutional) operators. For the 1988-1989 school year, there were audits of only 2 school bus companies and 3 other operators. According to the motor carrier safety staff, the number of vehicle inspections has also dropped.

Safety inspections and audits of bus operators are essential to an effective program of student transportation safety. When we accompanied motor vehicle safety officers on audits of school bus companies, we observed numerous discrepancies between requirements in its rules and the actions of bus operators. In many instances, the bus operators showed a misunderstanding about DOT's requirements. During school bus safety checks, we witnessed a number of vehicles withdrawn from service so that deficiencies could

be corrected. For school years 1988-1989 and 1989-1990, the DOT's records show that 106 vehicles, out of 827 inspected on Oahu, had to be withdrawn from service. With as many as 90 students as passengers in a single bus, frequent checks are warranted.

The DOT also needs to develop an adequate system for gathering and handling information on vehicle regulation. Records on vehicles and accidents are scanty at best and difficult to access where they do exist. Almost any information requested has to be manually gathered and compiled. The information is not readily verified, making it virtually impossible to monitor or evaluate program performance. Without better information and evaluation, accountability is rendered meaningless.

Student Transportation Drivers and Aides

Since taking over primary responsibility for student transportation safety, the DOT has done much to strengthen the formal qualifications for school bus drivers. Under the new rules that went into effect in April 1989 (Chapter 143 of the *Hawaii Administrative Rules*), persons can be disqualified if they (1) do not have a valid driver's license of the appropriate class, (2) have a serious criminal record or have been convicted of sexual abuse of a child, (3) have a bad driving record, (4) are under 21 years of age or have less than one year's driving experience, and (5) have not met the medical requirements for motor carrier drivers or do not have a current tuberculosis clearance. The new rules also have detailed requirements for the training and testing of bus drivers.

Additional improvements, however, need to be made to keep unqualified persons from driving school buses in Hawaii.

Information on drivers is not readily accessible

The DOT needs to develop a responsive system for gathering and handling information on school bus drivers. As long as basic information remains inaccessible, the DOT cannot enforce its regulations.

Much of the onus for complying with the department's new requirements is placed upon the school bus operators. The new rules of the DOT require the bus operators to maintain current, detailed files on their drivers and make these files accessible to appropriate state and county law enforcement authorities. The DOT's enforcement program consists of audits of these records. Under the old system, the DOE required special permits for school bus drivers.

Placing major recordkeeping responsibilities on the bus companies does not eliminate the need for a centralized information system

containing accessible, basic data on drivers. Because the department does not issue special permits to ensure that drivers are qualified, school personnel and other interested parties need quick access to information on individual drivers. No such information system has yet been developed. We were unable to obtain a complete and accurate listing of persons currently qualified to drive school buses.

Safety audits of personnel have declined

Over the past several years, the number of safety audits conducted by DOT has declined. The result is an unacceptably low level of monitoring.

To enforce its driver qualification requirements, the DOT relies primarily on periodic audits of the personnel and other records of school bus operators. The audits are used to verify the existence of complete files for those who actually drive school buses, to make sure that criminal extracts for the affected drivers have been filed directly with the DOT, and to determine that the persons driving school buses are properly qualified to do so.

The recently adopted DOT rules require school bus operators to document that their drivers comply with all qualification requirements. Operators must maintain a file that includes (1) a current medical certificate, (2) an annual traffic abstract, (3) a copy of a valid driver's license of the appropriate class, (4) a copy of the driver's examination on school bus laws and rules, (5) evidence of participation in school bus training activities, (6) commendations and complaints, (7) information on accidents in which the driver has been involved, and (8) certification of a negative tuberculosis examination.

When the DOT had several motor carrier safety officers on Oahu working full time on this area of responsibility, it inaugurated a fairly vigorous program of enforcement--including many and frequent audits of both vehicles and personnel. After DOT abandoned the dedicated staff approach, the numbers declined. Audits of bus company contractors, who account for the vast majority of drivers, dropped from 13 to 2. Audits of other operators dropped from 107 to 3. Although the decline may not be due entirely to the change in assignments among the DOT's motor carrier safety officers, a need for timely and comprehensive audits of bus operators clearly exists. When we observed several such audits, discrepancies and instances of non-compliance were found for every bus company audited. In numerous cases, required documentation was partially or totally absent. In some cases, no files for individual bus drivers could be located. In several instances, the bus operators did not seem to know or understand what they had to do to comply with the DOT's rules. Many used outdated tests and forms. These

findings show how difficult it is to know how many of the persons driving school buses in Hawaii are actually qualified.

Authority to regulate school bus aides removed

The use of school bus aides on buses transporting special education students is an improvement over previous practice. These aides help to load and unload students and manage them in transit. However, the authority of the Department of Education to regulate them--particularly for setting their qualifications--was inadvertently removed.

The rule regulating school bus aides was rescinded when the DOT and DOE adopted new rules. The new rules have no provisions for school bus aides. All formal requirements were deleted, and the aides are no longer subject to regulation. Before January 1990, special education school bus aides were regulated under the DOE's old Rule No. 48. To qualify as an aide under this rule, a person had to hold an appropriate certificate issued by the DOE or by an agency authorized by the DOE. Certificates could not be granted to any person who (1) had not attained the age of 18 years, (2) had not obtained a proper tuberculosis clearance, (3) had not obtained a Red Cross first aid training certificate, (4) had not received training in providing assistance for special education students, (5) had been convicted of felonies (within the previous 5 years) or misdemeanors (within the previous 3 years) involving moral turpitude or the use, sale, or possession of narcotics or dangerous drugs, or (6) had been convicted of any other felony not specified in the rule.

Since the DOT currently regulates school bus drivers, including the drivers of buses transporting special students, it would be reasonable to extend jurisdiction to include regulation of school bus aides. One consideration is criminal abstracts. Currently, criminal abstracts for school bus drivers go to the DOT while those for special education school bus aides go to DAGS. It would be preferable to have a single agency receiving and acting upon criminal extracts of drivers and aides.

Currently, only the DOT is authorized to adopt rules in this area. It should seek input from all affected parties to devise suitable arrangements for regulation. If new legislation is deemed necessary, a joint proposal should be made and submitted to the Legislature.

Appeals process is not in line with Chapter 91

The appeals process does not offer sufficient protection against capricious and arbitrary action by the department. Current rules and practices have the potential for abuse. For the protection of all concerned, including the decisionmaker, administrative appeals should be brought into full conformity with the requirements of Chapter 91, HRS, and the related DOT rules of practice and procedure.

The rules say that the DOT may suspend, revoke, deny, cite, or place on probation any school bus carrier or driver for any violation of the law. Another provision says that adverse decisions may be appealed to the director in writing within 10 days after receiving notice of the department's decision; the director has 30 calendar days to respond in writing to the appeal. A subsequent provision states that persons aggrieved by decisions of the department may appeal to the director of the DOT who *may* hold hearings on the appeals in accordance with the Hawaii Administrative Procedure Act (Chapter 91, *Hawaii Revised Statutes*).

These provisions have several serious shortcomings. First of all, it is unclear whether the two appeal provisions work in tandem to create a one-step appeals procedure or work separately to create a two-step appeals procedure. Although both provisions allow appeals to the director, we were informed that the head of the motor carrier safety staff renders decisions on appeals. Apparently, in most cases these decisions are taken as final.

Second, the rules do not appear to provide sufficient procedural protections. Given the seriousness of denying operating privileges, the rules should *require* a contested case hearing under Chapter 91 before such action is taken. A contested case hearing would bring into play the requirements for notice, hearing, evidence, judicial review, and other matters set forth in Chapter 91 and in DOT's department-wide rules of practice and procedures. These protections are not available under current rules, which simply permit, but do not require, a Chapter 91 hearing for the administrative appeal.

Third, Section 19-143-6 does not clearly separate the function of initial agency decisionmaking from consideration of appeals. Under current practice, the same organizational unit and official are responsible for (1) initial decisions to deny, suspend, or revoke the privileges granted to school bus operators and drivers, and (2) the initial handling of appeals of these decisions. Appeals of denial, suspension, and revocation actions are acted upon by the same person who approved the initial actions, and this person is not governed by procedures in Chapter 91. Without such a separation, officials may have to judge their own actions and affirm or overturn their own decisions. They may be biased, or perceived as such.

Recommendations

1. Steps should be taken to terminate as soon as possible the use in Hawaii of pre-1977 school buses. The Department of Transportation should grant no further exemptions or extensions of exemptions allowing the continued use of such school buses. The Department of Accounting and General Services should

work with its school bus contractors to quickly phase out the use of these vehicles to transport public school students to and from school. The Department of Education and other users of school bus services should refrain from using pre-1977 school buses for school-related activities.

2. The use in Hawaii of "Type III" school buses should be phased out. All new additions to Hawaii's fleet of school buses should be required to meet relevant federal safety standards for "Type I" or "Type II" school buses. A reasonable deadline should be set for halting the use of existing "Type III" school buses. To the extent these steps may create serious economic burdens, alternatives should be explored to ease such burdens without placing students in less safe vehicles. These might include, for example, joint purchasing arrangements or loan programs.

3. Legal loopholes allowing the use of non-conforming vehicles for student transportation should be narrowed. Except for mass transit buses, all large vehicles which are used for the regular or frequent transportation of children within Hawaii should be required to meet federal school bus safety standards. The Department of Transportation should work with the Department of Education to develop rules and procedures for granting exemptions. Proper emphasis should be placed on ensuring safety.

4. The Department of Transportation should move to make stop signal arms a standard requirement for all school buses in Hawaii.

5. The Department of Transportation should improve the enforcement of safety regulations by conducting more frequent safety inspections of vehicles, drivers, and operators.

6. The Department of Transportation should develop as expeditiously as possible a comprehensive and readily accessible information system that will encompass operators, vehicles, and drivers and will enable it to monitor, regulate, and evaluate student transportation safety on an immediately responsive and continuing basis.

7. The Department of Transportation should establish regulatory control over special education school bus aides.

8. The Department of Transportation should bring its appeals process into conformity with the Hawaii Administrative Procedure Act.

Chapter 3

Safety Regulation in Other Areas

Along with school bus vehicles and drivers, other operational factors affect student transportation safety and warrant attention. In this chapter we look at what is being done in Hawaii to enhance safety in these areas, with particular emphasis on conditions affecting the public schools.

Summary of Findings

1. Student safety training and student discipline need more attention.

   a. A statutory void should be filled to ensure that private school students are provided safety training and discipline.

   b. Safety training and discipline for Hawaii's public school students need more direction and support.

   c. Students should have regular drills in the emergency evacuation of school buses.

2. The roles of those who manage excursion travel in the public schools need to be clarified and responsibilities need to be carried out appropriately.

3. Neglect of school bus routes, stops, and schedules should not be allowed to continue. Particular attention needs to be given to the problem of traffic passing school buses that are stopped for the loading and unloading of students.

4. Because authority and responsibility are shared by three separate government agencies, many important elements of student transportation safety escape attention. Cooperation among agencies is needed to carry out the recommendations of this report.

Student Safety Training and Discipline

The conduct of students can affect their safety. Students constitute the bulk of the passengers riding aboard school buses. They also make up a large portion of the traveling public that comes into contact with school buses as pedestrians, bicyclists, and passengers in other vehicles. The less predictable behavior of children can cause accidents and make them more severe. And because they are smaller, students are more vulnerable to harm.

An effective approach to student transportation safety seeks to influence and direct the behavior of students so as to prevent them from causing accidents or increasing their seriousness. This is accomplished through education, training, and discipline. Inasmuch as schools are the institutions charged with educating students and managing them during the school-related activities, they can be expected to provide transportation safety training and discipline. Unfortunately, Hawaii's public schools have not carried out these basic requirements.

Our previous findings on the training and disciplining of school bus riders were that (1) formal requirements were inadequate, (2) the Department of Education (DOE) was not organized to carry out these functions, (3) insufficient resources were being devoted to student training, and (4) responsible officials did not place a high enough priority on this area. Similar problems remain in the statutes and extend throughout the administrative structure of the DOE.

Private schools are not covered by the statutory requirement for safety training

The statutes do not require that private school students be provided with student transportation safety training or subject to disciplinary control while being transported under school auspices. When 1983 legislation shifted responsibilities for student transportation to the Department of Transportation (DOT), student training and discipline were left with the DOE. The DOE's jurisdiction in this area was redefined to extend only to public schools.

Like all other areas of regulatory control in student transportation safety, the regulation of student safety training and discipline should be vested in the DOT. Implementation of the regulatory requirements should be left with the educational authorities--the DOE in the case of public schools and individual school administrators in the case of private schools.

Public schools have inadequate safety training

The DOE provides little direction to the schools on what should constitute safety instruction and how best to provide it. In its directions to the schools, the department suggests the use of certain resources in either school assemblies or the classroom, but it offers no guidance on what objectives are to be attained or what lessons students are expected to learn. The DOE has no monitoring system to ensure that students throughout the public schools are receiving instruction in this area.

Spotty instruction in student transportation safety is a problem of long standing within the DOE. Our 1978 assessment still applies today:

> No one can say how much time should be devoted to student passenger training, what the curriculum is, what the instructional materials are, instructor qualifications, how much classroom instruction there should be as against practical training and experience, or what sort of variations there should be, if any, relative to the age, grade level, physical capacity, or mental ability of the students. Even for the drills and instruction in the use of emergency exits specifically referred to in Rule No. 48, no clear training programs exist.[1]

We found inconsistencies, ambiguities, and contradictions among formal requirements, departmental instructions and guidelines, and actual practice at the school level.

Formal requirements and departmental instructions

Section 286-181, *Hawaii Revised Statutes*, requires the DOE to "adopt necessary rules governing passenger conduct, passenger safety instruction, and disciplinary procedures for the enforcement of the rules applicable to passengers on school vehicles operated by or under contract with the State." The DOE has adopted rules that specify the respective responsibilities of school bus drivers and the schools in pupil management, define proper behavior for student passengers in the form of a "passenger safety code," and establish procedures for handling infractions of this code. The rules also require that once a year "each school principal shall provide safety instructions to school bus riders in grades kindergarten through twelve. The instruction shall be appropriate to the type of transportation services that the student receives."

The DOE also develops and distributes written instructions, guidelines, and forms relating to student transportation and student transportation safety. These materials are compiled and issued as the *Student Transportation Guide* (Volume II-A of the DOE's *Business Office Handbook*).

At the department level we found a lack of communication and coordination about the guide and its purpose. Among the schools and districts, we found differing interpretations of departmental instructions and guidelines and inconsistencies in implementation.

We believe that a main source of the difficulty is that the *Student Transportation Guide* does not communicate the importance of its subject. It is simply an assortment of materials relating to student transportation and student transportation safety. The guide does not pull together the parts into a reasonable semblance of a safety program, nor does it provide sufficient detail to allow schools to manage this on their own. It makes no provision for the flow of information about student transportation safety throughout the DOE.

Actual practice

We found that student transportation safety was not taught in a consistent manner. There was often confusion as to its place in the regular school program. Many personnel did not realize that such training is mandatory. Some thought the bus companies and bus drivers, not the schools, were obligated to provide this training. There was widespread confusion about which students should receive this training. Many staff members thought the training requirement applied only to students receiving subsidized school bus transportation to and from school.

As a consequence, training was provided unevenly. Some schools gave no instruction, others left the decision to individual teachers, while still others gave structured instruction. Some schools provided instruction to the whole student body; others limited instruction to students riding buses to and from school. Content varied widely among schools.

Emergency training and drills are needed

There is still no satisfactory program for emergency training and drills. We found widespread noncompliance with legal requirements and a general lack of adequate emergency training in the public schools.

Emergency training is a requirement of all three of the affected state departments. The Department of Transportation, under its general authority relating to student transportation safety, has adopted the following rule (Section 19-143-12, *Hawaii Administrative Rules*) relating to emergency training:

> Emergency. All school bus carriers shall provide instructions for passengers on how to open emergency exits and how to exit orderly through the regular and emergency exits. Two emergency evacuation drills previously approved by the department and utilizing volunteer passengers shall be conducted by the carriers each year. The first drill shall be within the months of September to December and the second drill within the months of January to May. Carriers shall keep a report on file certifying that the drills have been conducted.

DAGS has incorporated a similar rule as part of the contracts it has with the school bus companies providing services to and from school. The brunt of implementing and enforcing the rules falls upon the DOE.

However, neither DOE's new rules nor its *Student Transportation Guide* sets forth specific directions to the districts and schools about implementing school bus emergency training. The *Student*

Transportation Guide places a set of guidelines amongst various sample forms where it can be easily overlooked. The guide also contains a sample "emergency evacuation drill certification form" for school bus contractors for which no explanation or instructions are provided.

With little departmental direction, school bus emergency training is little understood and poorly dealt with at the district and school levels. Many educational personnel believe that such training is the responsibility of school bus contractors and applies only to those affected student passengers.

Relative to this particular area, we observed several safety management audits of school bus contractors and found that for the most recent school year (1) one contractor had not conducted any emergency drills, (2) another contractor had conducted drills for all school buses taking students to and from affected schools during the first semester, but had carried out no drills during the second semester, and (3) a third contractor had conducted drills for to-and-from-school passengers at all affected schools during the first semester, but had conducted drills at only a few schools during the second semester. The contractors were still using the outdated certification forms.

Corrective action in this area is warranted. When emergencies involving school buses do occur, passengers should know how to evacuate buses as expeditiously and safely as possible and then what to do after evacuating. Evacuations may be necessary not only in the event of accidents, but also when mechanical breakdowns or other happenstances occur.

Excursion Travel for the Public Schools

Another way the DOE becomes directly involved in student transportation safety is in arranging and overseeing transportation for school activities. School and district personnel make virtually all transportation arrangements for school activities. We discuss here transportation on chartered school buses, exempt vehicles, and school-owned vehicles.

Chartering of regular school buses is not adequately overseen

DAGS is the agency that contracts for bus transportation to and from school for public school students. DAGS deals almost exclusively with the private contractors. It does not provide DOE's educational staff with much information regarding the terms and conditions of its contracts, and in turn receives little information on the needs and concerns of school personnel. As a result, DOE administrative staff have little practical experience in contracting and overseeing the

services of private operators. Arrangements for these services are left almost entirely to district and school personnel. The *Student Transportation Guide* provides no guidance.

District and school officials rely almost exclusively on private companies under contract with DAGS to provide transportation for school activities. There is no one specifically in charge of monitoring performance in this area and ensuring that appropriate safety precautions are being taken.

This situation opens the door to more extensive use of pre-1977 schools buses, which are substantially less safe than school buses built after stricter safety requirements were imposed by the federal government. Although the DOT's rules require the use of school buses built after 1977, the DOT has granted temporary exemptions to school bus companies. Educational staff within the DOE have continued to charter school buses from these companies for excursions and other activities without regard to whether or not the vehicles used were built after 1977.

Use of exempt vehicles skirts safety requirements

Largely for convenience and economy, the DOE supported legislation granting exemptions from the requirement that only approved school buses be used to provide student transportation. The DOE's use of exemptions does not comply with statutory requirements and its instructions regarding exempt vehicles do not adequately address safety considerations. Inconsistency and uncertainty exist over the use by school personnel of privately owned vehicles to transport students and also over entitlement to reimbursement for such use. While the use of non-conforming vehicles may occasionally be justifiable and reasonable, such use should be strictly limited and subject to requirements ensuring that safety will continue to be the focus of attention.

Safety drawbacks of school-owned buses are not made clear

The section of the *Student Transportation Guide* relating to buses owned by schools gives little attention to ensuring their safe operation. The guidelines deal almost entirely with the acquisition, registration, insurance, and disposition of these vehicles. For example, no mention is made of the three types of school buses or that "Type III" school buses do not meet federal safety standards for school buses and are substantially less safe then "Type I" and "Type II" school buses. Considering that "Type III" school buses are the ones most frequently owned by public schools, it is important that educational personnel be made aware of their safety drawbacks.

The DOE guidelines also fail to point out that all buses owned by schools are subject to the safety regulation of the DOT and must

meet all of the DOT's requirements in terms of construction, equipment, maintenance, and operation. Although the guidelines make reference to the requirement for vehicle safety inspections every six months, they do not highlight other aspects of safety regulation, such as regular maintenance of vehicles, daily safety checks, and the keeping of records on driver qualifications.

Because school-owned buses are scattered throughout the state, the DOT is not able to maintain close surveillance. The main duty of assuring their safe use and operation rests with the DOE. However, the DOE has no means of regularly monitoring its own vehicles and drivers and assessing their compliance with the requirements.

School Bus Routes, Stops, and Schedules

School bus routes, stops, and schedules can profoundly affect student transportation safety. Bus routes that require many students to cross the roadway are much less safe than those where pedestrian crossing is not required. Bus stops located in areas where traffic is heavy and visibility is poor are more hazardous than stops where these problems are not present. Schedules that require travel during times of darkness add another dimension of danger.

Regulation of bus routes, stops, and schedules needs emphasis

National safety authorities emphasize the need to devote attention to school bus routes, stops, and schedules. The 1985 Revised Edition of the *Standards for School Buses and Operations* of the Tenth National Conference on School Transportation makes clear that routes, stops, and schedules should be established only after thorough investigation and study and then should be subject to continuous monitoring. Similarly, pupil transportation safety guidelines of the National Highway Traffic Safety Administration call for states to (1) plan and annually review routes for safety hazards, (2) plan routes to maximize use of school buses and to avoid having students stand while on board, (3) provide loading and unloading zones off the main thoroughfares wherever practicable, and (4) establish restricted areas at schools for loading and unloading students.

Little attention to safety

The three state agencies do not designate responsibility for creating bus routes, stops, and schedules. The only directly relevant statutory provision is Section 286-181(b)(6), *Hawaii Revised Statutes*, which is the last of a list of specific rulemaking responsibilities given to the DOT. This provision calls for the department to adopt safety rules

relating to "criteria for passenger loading and unloading areas." No specific reference is made to routes or schedules, and to date the DOT has not framed rules specifically addressed to creating safe routes, stops, and schedules. It treats these as matters beyond its direct purview.

Although the DOE controls the scheduling of school activities, it has no direct responsibility for school bus routes, stops, and schedules except for what occurs immediately on and around school campuses.

State involvement generally occurs through DAGS because this department administers the State's school bus service contracts with private bus companies. Duties assigned to DAGS in the 1979 memorandum of agreement included such matters as (1) coordinating the assignment of students to buses, (2) coordinating the designation of bus stops, and (3) providing schools with information on bus routes and schedules. DAGS, for the most part, approaches these matters from an economic and operational perspective.

Because no one agency has assumed responsibility for ensuring safe routes, stops, and schedules, there are (1) no general standards and guidelines to govern the *setting* of routes, stops, and schedules and (2) no mechanism whereby these matters might be regularly reviewed from the standpoint of safety.

No standards or guidelines

Hawaii has discussed but not yet applied a number of basic safety principles that have received nationwide acceptance. These include, for example, locating stops so as to minimize traffic disruptions and to afford bus drivers with a good field of view in front of and behind the bus, and selecting routes and stops that minimize the need for children to cross the roadway to board or leave the bus (especially on busy highways).

The only DOT rules relating to this area are a list of operating instructions for school bus drivers. For example, they direct drivers not to reverse buses on school grounds or at any point where students enter or leave buses unless there are no other safe alternatives, not to deviate from routes assigned by their employers, to report hazardous conditions on routes, and to stop only at bus stops designated by the State or by their employers. Although necessary, these leave unclear the agency responsible for designating and approving stops or the conditions that qualify as hazardous.

No ongoing review

None of the three agencies periodically reviews existing routes, stops, and schedules for safety. The brunt of this responsibility falls upon DAGS, and although DAGS may review routes and stops from time to time, it does so on an ad hoc basis. It has no policies or procedures for regular review of safety aspects. The department does not maintain information on the extent or frequency of its reviews or the nature of actions taken.

As was true in 1978, stops are not designated in a consistent manner or listed in the school bus contracts. Various parties decide the location of bus stops--DAGS transportation officers, bus companies, bus drivers, and even federal officials (for stops on military bases). On Kauai, the county government designates the stops. In some cases, city bus stops are also designated as school bus stops. There is no way of knowing the basis for determining school bus stops in Hawaii, the extent to which safety factors have been considered, or whether the safest locations are being used.

Situation for special education students merits more care

DAGS maintains little effective control over the routes, stops, and schedules for special education students. The bus companies are allowed wide discretion in transporting special students. Although some route information is submitted to DAGS, it is not reviewed on a comprehensive and consistent basis. As a consequence, there is no way of being sure that this transportation is being provided in the safest and most convenient manner for the student passengers.

Routes, stops, and schedules for special education students present a special problem. Transportation is "curb-to-curb"--from home to school and back. Students and schools are widely scattered. Requests for such transportation are submitted to DAGS through the DOE. The bus companies providing this service are required under their contracts with DAGS to initiate service within one week after receiving a request from DAGS. Under these circumstances, it is essential for the bus companies to be flexible in setting routes and schedules. At the same time, it is also important that the actions of the bus companies be subject to effective oversight and control by DAGS so as to ensure the safety of the students. It is particularly important that DAGS know what routes are being followed, where transfers may be occurring and the lengths of time students may be in transit.

Passing of stopped school buses still poses a threat

A specialized aspect of school bus routes and stops is the matter of halting traffic in the vicinity of school buses while they are loading or unloading students. One of the greatest hazards faced by children riding school buses is to be struck by a car while crossing the roadway either to board a bus or after leaving it. Hawaii does not have a safety program that alleviates this hazard.

The nationwide practice is to require by law that nearby traffic come to a halt while school buses are stopped on or near the roadway and have actuated their flashing red lights and stop signal arms. Accidents can occur when nearby motorists ignore the stop signals and proceed to pass. An effective safety program seeks to alleviate these drawbacks by (1) establishing clear, consistent, and reasonable legal requirements, (2) using the most obvious and easily understood stop signals, (3) implementing regular and effective programs of public education and indoctrination, and (4) enforcing the legal requirements. Unfortunately, Hawaii's student transportation safety program has deficiencies in all four of these areas.

Statutory complications

It was not until 1987 that the passing of stopped school buses was made illegal throughout the state. Many persons in Hawaii still are not aware of the law.

The law itself is confusing. It provides as follows: "The driver of any vehicle on the same highway in the lane occupied by the school bus and the lane immediately adjacent to the lane occupied by the school bus, regardless of the direction of traffic in that lane, shall stop the driver's vehicle before reaching the school bus and shall not proceed until the school bus resumes motion or the visual signals are turned off."[2] If the intent of this law is to protect children crossing the roadway, then stopping should be required in all lanes that *will be crossed by the children, whether it be two, three, four, or more.* At present, stopping is required for only two lanes. Some officials have indicated that stopping may be required in only one lane if the stopped school bus has pulled onto the shoulder of the road to load or unload students. In any event, the provisions do not go far enough in protecting students crossing the roadway.

The law also requires that school bus drivers activate the stop signals whenever they stop their buses on the roadway to load or unload students, *regardless of whether or not any of the students will be crossing the roadway.* Although this is a practice which is broadly followed throughout the country, it may not always be necessary to stop traffic when all student activity is on the side of the roadway where the bus is stopped.

California's law does not require activation of the stop signals and the stopping of traffic in situations where students do not have to cross the roadway. However, when crossing is involved, the school bus driver must activate the stop signals, stop the bus and set the emergency brake, turn off the ignition and remove the key, and then accompany the students across the roadway. *In the meantime, traffic in both directions is required to stop until the driver reboards the bus and turns off the stop signals.* This approach not only affords greater protection to students crossing the roadway, it avoids the unnecessary halting of other traffic. Moreover, it provides bus operators and drivers with incentive to find alternate routes and stops that will alleviate the need for students to cross the roadway. Though longer delays will result when traffic is stopped, this may be a price well worth paying.

Hawaii's law in this area warrants re-examination. Consideration should also be given to California's law. Although no studies have been made of the California approach, the number of children killed in school bus loading zones has been well below the number expected from the experience of other states of comparable size, such as New York and Texas. It is for this reason that the National Research Council has urged other jurisdictions to test and assess the results of this approach.[3]

Need for public education

Since 1987, there has been no strong effort to inform Hawaii's motorists of this law. School bus drivers, as well as other motorists, are equally uninformed. We observed (1) school buses stopping on the roadway and loading and unloading students without turning on their red flashing lights, (2) traffic passing school buses while red lights were flashing and students were getting on and off, and (3) cars stopping for school buses parked on the side of the road even though the buses were not flashing their red lights. Officials in the DOT agree that there has not been sufficient public information and education in this area, but have not yet developed any plans to remedy this situation.

Need for stronger enforcement

The DOT acknowledges that the present law continues to be violated frequently and that this is due to inadequate enforcement as well as insufficient public information and awareness. Concerted effort should enlist cooperation and support on the part of the county police departments so as to give real meaning to this law. To be most effective, public education and enforcement must go hand in hand.

This has been demonstrated in other areas of traffic safety where programs have been mounted through the joint efforts of state and county officials, such as the recent campaigns aimed at increasing the use of seat belts and reducing drunk driving on Hawaii's streets and highways.

Recommendations

1. Section 286-181, HRS, should be amended to make the Department of Transportation responsible for regulating student transportation safety training and behavior through standard setting and enforcement. The Department of Education should continue to have responsibility for complying with safety requirements and providing safety training to public school students.

2. The Department of Education should develop a program of student transportation safety education, training, and discipline for public school students.

3. The Department of Education and the Department of Accounting and General Services should delineate responsibilities for the emergency training of students, school bus drivers, school bus aides, and other persons who ride school buses.

4. The Department of Education should move forthwith to overhaul its policies and procedures governing the arrangement of student transportation for school activities. Policies and procedures should comply with legal requirements, specify safety considerations, and describe the roles and responsibilities of educational staff. The department should monitor the condition and use of school-owned buses and inform schools that buses must meet Department of Transportation regulations.

5. The Departments of Transportation, Education, and Accounting and General Services should develop appropriate standards for school bus routes, stops, and schedules. They should establish the necessary administrative mechanisms to ensure regular review and orderly adjustment of these factors and give particular attention to controlling the routes, stops, and schedules for special education students.

6. The Department of Transportation should spearhead an effort to eliminate the illegal passing of stopped school buses. It should seek to amend Section 291C-95(a), HRS, to require all lines of traffic to stop when a bus is loading or unloading students that must cross the roadway. It should consider adopting California's

approach and initiate a vigorous program of public education and law enforcement.

Need for Interagency Cooperation

With the passage of Act 94 in 1983, Hawaii widened its perspective of student transportation to encompass the many aspects of highway safety that affect students. Not only was student transportation safety grouped with highway traffic safety both statutorily and organizationally, but the regulatory coverage of school bus safety was made more comprehensive. With a few exceptions made subsequently, the vast majority of vehicles used to transport students are now subject to student transportation safety regulation by the Department of Transportation.

Authority and responsibility are now shared by three government agencies--the Department of Transportation, the Department of Education, and the Department of Accounting and General Services. Our 1978 audit recommended a sorting out of departmental responsibilities among the agencies. In 1979, the affected agencies signed a memorandum of agreement to accomplish this. Act 94 in 1983 transferred almost all of the DOE's safety regulatory powers to the DOT, making the latter department the lead agency, but leaving safety training and discipline, contracts, and other responsibilities with DOE and DAGS.

With authority and responsibility dispersed, certain problems have persisted. There is still a need to differentiate between safety *regulation* and safety *compliance*. Failure to do so and to assign responsibilities accordingly has eliminated, for example, the formal basis for regulating school bus aides and has contributed to the lack of a training program in safety and discipline. Responsibility for student safety training and discipline was the one specific area set forth in the statutes that was not transferred from the DOE to the DOT.

There is still a need for better coordination among the agencies. For example, the existing arrangements for sharing student transportation service functions between DAGS and DOE were left untouched by Act 94. Although DAGS is primarily concerned with operational and economic aspects of student transportation, it unavoidedly is involved in safety. DAGS continues to be responsible for transporting about 40,000 public school students to and from school. Its contracts will have to set the age limits on school buses. However, among other areas noted earlier, DAGS could do more to ensure that all public school students receive training in emergency evacuation of school buses; that routes, stops, and schedules are set from a safety perspective; that the needs and

concerns of the districts and schools are solicited when contracts are being developed and negotiated.

With the passage of Act 94 in 1983, the adoption of the DOT's new rules in 1989, and the increasing number of exemptions instituted by 1990 legislation, it is appropriate for the three departments to develop a new administrative mechanism to further sort out responsibilities and assure continuing cooperation and coordination. As the agency with primary responsibility for student transportation safety, the DOT should take a leadership role in implementing the law.

Recommendation

The Department of Transportation should establish an interagency task force with representatives from the Department of Education and the Department of Accounting and General Services. The task force should develop a new administrative mechanism establishing the respective responsibilities of its members and providing for an ongoing system of cooperation and coordination in the field of student transportation safety. The department should also consider creating an advisory committee of those interested in and affected by program activities to provide regular feedback on the student transportation safety program.

Notes

Chapter 1

1. Hawaii, Department of Business and Economic Development, *The State of Hawaii Data Book*, 1989, p. 89.

2. Hawaii, Legislative Auditor, *Management Audit of the Student Transportation Service Program*, Report No. 78-2, Honolulu, December 1978, Part II, pp. 11-91.

3. This general summary of student transportation safety is drawn from Chapter 2, "School Bus Transportation in the United States," *Improving School Bus Safety*, Special Report No. 222, of the Transportation Research Board, National Research Council, Washington, D.C., 1989, pp. 21-30.

4. See Part I, *Management Audit of the Student Transportation Service Program*, Report No. 78-2, of the Legislative Auditor, State of Hawaii, Honolulu, December 1978, pp. 1-10.

Chapter 2

1. 54 *Federal Register* 29630, July 13, 1989.

2. National Research Council, Transportation Research Board, *Improving School Bus Safety*, Special Report No. 222, Washington, D.C., 1989, p. 2.

3. 54 *Federal Register* 29630, July 13, 1989.

4. 55 *Federal Register* 3621, February 2, 1990.

Chapter 3

1. Hawaii, Legislative Auditor, *Management Audit of the Student Transportation Service Program*, Report No. 78-2, Honolulu, December 1978, Part II, p. 70.

2. Section 291C-95(a), *HRS*.

3. National Research Council, Transportation Research Board, *Improving School Bus Safety*, Special Report No. 222, Washington, D.C., 1989, pp. 154-155.

Response of the Affected Agency

Comments on Agency Response

We transmitted a draft of this Management Audit of Hawaii's Student Transportation Safety Program to the Department of Transportation, Department of Education, and Department of Accounting and General Services on January 4, 1991. A copy of the transmittal letter to the Department of Transportation is included as Attachment 1. Only the Department of Transportation submitted a written response. This is included as Attachment 2.

The Department of Transportation concurs with our recommendations as they pertain to that department. It welcomes an interagency approach to student transportation safety and indicates that our recommendations provide a viable working tool for improving the State's student transportation safety program.

ATTACHMENT 1

STATE OF HAWAII
OFFICE OF THE AUDITOR
465 S. King Street, Room 500
Honolulu, Hawaii 96813

(808) 548-2450
FAX: (808) 548-2693

COPY

January 4, 1991

The Honorable Edward Y. Hirata, Director
Department of Transportation
State of Hawaii
869 Punchbowl Street
Honolulu, Hawaii 96813

Dear Mr. Hirata:

Enclosed are three copies, numbers 11 to 13 of our draft report, *Management Audit of Hawaii's Student Transportation Safety Program*. We ask that you telephone us by January 8, 1991, on whether you intend to comment on our recommendations. If you wish your comments to be included in the report, please submit them no later than January 17, 1991.

Mr. Charles T. Toguchi, Superintendent of Education, Dr. Mitsugi Nakashima, Chairman of the Board of Education, Mr. Russel S. Nagata, Comptroller, Department of Accounting and General Services, the Governor, and presiding officers of the two houses of the Legislature have also been provided copies of this draft report.

Since this report is not in final form and changes may be made to it, access to the report should be restricted to those assisting you in preparing your response. Public release of the report will be made solely by our office and only after the report is published in its final form.

Sincerely,

Newton Sue
Acting Legislative Auditor

Enclosures

ATTACHMENT 2

JOHN WAIHEE
GOVERNOR

EDWARD Y. HIRATA
DIRECTOR

DEPUTY DIRECTORS
DAN T. KOCHI (PRIMARY)
RONALD N. HIRANO
JEANNE K. SCHULTZ
CALVIN M. TSUDA

STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
869 PUNCHBOWL STREET
HONOLULU, HAWAII 96813-5097

IN REPLY REFER TO

MVS 9.13169
06.07.01

January 15, 1991

RECEIVED
JAN 24 10 23 AM '91
OFC. OF THE AUDITOR
STATE OF HAWAII

Mr. Newton Sue
Acting Legislative Auditor
State of Hawaii
Office of the Auditor
465 S. King Street, Room 500
Honolulu, Hawaii 96813

Dear Mr. Sue:

Thank you for your letter of January 4, 1991, regarding the draft report, Management Audit of Hawaii's Student Transportation Safety program.

We have reviewed the draft and concur with the recommendations as they pertain to the Department of Transportation and welcome an association of interagency involvement/advisory committee of interested parties affected by program activities on student transportation safety.

We believe the recommendations to be a viable working tool in improving our state student transportation safety program.

Very truly yours,

Edward Y. Hirata
Director of Transportation

SUGGESTED LEGISLATION

A BILL FOR AN ACT

RELATING TO PUPIL TRANSPORTATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. Section 286-181, Hawaii Revised Statutes, is amended to read as follows:

"§286-181 Pupil transportation safety. (a) As used in this section "school vehicle" means any publicly or privately owned motor vehicle used to transport pupils to and from a school as defined in section 298-41 or school functions or school-related events, except:

(1) A motor vehicle used for transportation of pupils attending schools above the twelfth grade or pupils over eighteen years of age;

(2) A privately owned passenger vehicle when the transportation is provided without compensation of any kind; or

(3) A motor vehicle used for transportation of pupils together with other passengers as a part of the regularly scheduled operation of a mass transit system[; or

(4) A privately owned motor vehicle when the transportation is provided by a community association or a nonprofit corporation, duly incorporated with the department of commerce and consumer affairs, which operates for the purpose of promoting recreation, health, safety, ridesharing, or social group functions].

(b) The department of transportation may grant exemptions for the use of vehicles other than school vehicles when the department finds that compliance with this section is [impossible or impractical due to factors, such as the unavailability of school vehicles, which are beyond the control of the school] infeasible or imposes undue hardship and also finds that the alternative transportation arrangements provide adequate safety to the affected pupils. The exemptions shall be granted:

(1) [To the department of education, to administer to public schools based] Based on criteria developed by the department[s] of transportation [and education] in consultation with the department of education and other users of pupil transportation services, provided that the department of education and other

affected users of pupil transportation services shall submit [a] reports to the department of transportation at the end of each school year on the extent to which these exemptions were utilized;

(2) Only for the transport of pupils to and from school functions or school-related activities but not for transportation to and from a school; and

[(3) Only when each pupil being transported has obtained a written statement from the pupil's parent or legal guardian waiving the State's liability; and

(4)] (3) In accordance with the procedures and criteria established by rules of the department of transportation.

(c) The department of transportation may grant exemptions for the use of vehicles other than school vehicles for the transportation of students requiring special education and services when the department finds that compliance with this section is [impossible or impractical] infeasible or imposes undue hardship and also finds that the alternative transportation arrangements provide adequate safety to the affected pupils.

(d) The department of transportation shall adopt safety rules and standards relating to school vehicles[,] and school

vehicle equipment, [and] drivers, and aides, including but not limited to:

(1) School vehicle and school vehicle equipment design, construction, and identification;

(2) School vehicle driver and aide qualification and training [as required by law];

(3) School vehicle operation;

(4) School vehicle maintenance and maintenance records;

(5) Special school vehicle safety inspections;

(6) Criteria for school vehicle routes, stops, and schedules, including passenger loading and unloading safety areas; [and]

(7) School vehicle passenger safety instruction, conduct, and discipline; and

[(7)] (8) Procedures and criteria for the granting of exemptions permitted under subsections (b) and (c);

provided that the rules and standards shall [permit the use of small buses or vans weighing less than ten thousand pounds for the transportation of pupils of a day care center, child care facility, headstart program, and preschool, or of school pupils and school staffs to and from school-related activities] not permit the use of any school vehicle manufactured prior to April 1, 1977.

(e) The department of education shall develop and implement for the public schools a comprehensive program for pupil transportation safety training and discipline, including regular drills in emergency evacuation of school vehicles for all students, and shall adopt necessary rules consistent with applicable rules of the department of transportation governing passenger conduct, passenger safety instruction, and disciplinary procedures for the enforcement of the rules applicable to passengers on school vehicles operated by or under contract with the State. Any pupil who fails to comply with any rule adopted pursuant to this subsection shall not be subject to section 286-10 but shall be subject to discipline in accordance with rules adopted by the department of education.

(f) Any person operating a school vehicle who fails to comply with any rule adopted pursuant to this section shall be fined not more than $500 or imprisoned not more than six months, or both.

(g) The director of transportation, or any officer, employee, or representative of the department of transportation appointed by the director shall be responsible for the enforcement of any safety rules and standards adopted pursuant to subsection (d), including the reporting, investigation, and analysis of accidents relating to pupil transportation and the

development of a comprehensive and accessible information system on school vehicles and school vehicle drivers. The director of transportation shall be responsible for providing overall leadership in the field of pupil transportation safety, including using such means as task forces, advisory committees, conferences, and public information campaigns. The director of transportation may request that the executive officers of each county and any other state agency having responsibility relative to pupil transportation provide additional enforcement of any rule adopted by the department of transportation."

SECTION 2. Section 291C-95 is amended to read as follows:

"§291C-95 Overtaking and passing school bus. (a) Whenever a school bus is stopped on a highway with its visual signals as described in subsection (g) of this section actuated, the driver of any motor vehicle on the same highway [in the lane occupied by the school bus and the lane immediately adjacent to the lane occupied by the school bus], regardless of the direction of traffic [in that lane], shall stop the driver's vehicle before reaching the school bus and shall not proceed until the school bus resumes motion or the visual signals are turned off.

(b) Subsection (a) shall not apply to a vehicle when the school bus and the vehicle are on different roadways.

(c) The driver of the school bus shall actuate the visual signals described in subsection (g) only when the school bus is stopped for the purpose of receiving or discharging school children who have to cross the highway. All school children having to cross the highway before or after riding a school bus shall be escorted across the highway by the school bus driver. Upon actuating the visual signals, the school bus driver shall bring the bus to a stop, set the emergency brake, turn off the ignition, and remove the key. The school bus driver shall then disembark from the school bus and escort the pupils across the highway. Only after all affected pupils have crossed the highway safely shall the school bus driver reboard the school bus, deactivate the visual signals, and put the school bus into motion again.

(d) The front and rear of every school bus shall be marked with the words "SCHOOL BUS" in plainly visible letters not less than eight inches in height and strokes not less than three-fourths of an inch in width.

(e) No vehicle, other than a school bus, shall display a "SCHOOL BUS" sign.

(f) When a school bus is being operated upon a highway for purposes other than as an incident to the transportation of

children, all marking thereon indicating "SCHOOL BUS" shall be covered or concealed.

(g) The visual signals required under subsection (c) to be actuated shall consist of four red signal lamps [meeting] and a stop signal arm. The four red signal lamps shall meet the following requirements:

(1) Two lamps shall face forward and two shall face the rear;

(2) The two forward lamps shall flash alternately and shall be mounted at the same level, but as high and as widely spaced as practical;

(3) The two rear lamps shall flash alternately and shall be mounted at the same level but as high and as widely spaced as practical;

(4) Each of the lamps shall be of sufficient intensity as to be plainly visible at a distance of five hundred feet in normal sunlight and shall be capable of being actuated from the driver's seat by a single switch.

The stop signal arm shall be installed on the left outside of the school bus and shall meet the applicable requirements of the Society of Automotive Engineers. The arm shall be of an octagonal shape with white letters and border and a red

background. Flashing lamps in the stop arm shall be connected to the alternately red flashing signal lamp circuits."

SECTION 3. In implementing this Act, the department of transportation shall seek to terminate as rapidly as possible the use of school vehicles manufactured prior to April 1, 1977. The department shall phase out in a reasonable manner the use as school vehicles of those small buses and vans weighing less than ten thousand pounds which do not comply with all its safety standards for school vehicles.

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.